

There are several HIPAA related pieces of news below:

1) The first e-news item below is the latest news on the House passing a bill to delay the HIPAA compliance date. While this is progress, there are still many discussions and votes to have this proposal become reality. For many entities, resource levels and schedule considerations are critical in our current HIPAA efforts.

2) Attached is an agenda for our Statewide HIPAA Workgroup Meeting on Monday, Dec. 17 at 1:30.

Please be sure to note that in some cases the information presented may be the opinion of the original author. We need to be sure to view it in the context of our own organizations and environment. In some cases you may need legal opinions and/or decision documentation when interpreting the rules.

Many thanks to all who contributed to this information!!!

Have a great day!!!  
Ken

Items included below are:

[healthprivacy-news] House passes bill to delay compliance date

[hipaalive] RE: TCS

[hipaalive] Re: General - Research

[hipaalive] RE: SECURITY: Internal Email

[hipaalive] RE: Privacy: TCS COB

[hipaalive] RE: ADMIN: HIPAAlive-Premium

HIPAA Implementation Newsletter -- Issue #23 - November 30, 2001 (ATTACHED)

\*\*\*\*\* [healthprivacy-news] House passes bill to delay compliance date  
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>>> "Sherman, Shneor (DHS-ITSD-ITS)" <[SSherman@dhs.ca.gov](mailto:SSherman@dhs.ca.gov)> 12/05/01 09:31AM  
>>>

FYI.

Shneor Sherman

Information Management Architecture Section

IT Services Division

-----Original Message-----

From: [info@healthprivacy.org](mailto:info@healthprivacy.org) [<mailto:info@healthprivacy.org>]

Sent: Wed, December 05, 2001 8:01 AM

To: [members@healthprivacy.org](mailto:members@healthprivacy.org)

Subject: [healthprivacy-news] House passes bill to delay compliance date  
of HIPAA transactions

Yesterday, the U.S. House of Representatives passed a bill (H.R. 3323) that would delay the compliance date of the HIPAA transaction and code set

regulations until October 16, 2003. This bill requires health plans (except small health plans) and health care providers to submit a plan to the Secretary of the Department of Health and Human Services by Oct. 16, 2002, that explains how they will come into compliance, including a budget, schedule, work plan and implementation strategy for achieving compliance. Last week, the Senate also passed a bill (S. 1684) delaying the compliance date of the transaction regulations. Differences in the two bills still need to be resolved. However, neither bill would affect the compliance date of the HIPAA privacy regulation, which is April 14, 2003.

\*\*\*\*\* [hipaalive] RE: TCS

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\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

There is nothing in HIPAA that would prevent a health insurance issuer or other health plan from requiring providers to submit all claims electronically. However, a beneficiary whose claim was denied by his health plan because the provider submitted it on paper, could make a case that his benefits were being denied improperly.

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\*\*\*\*\* [hipaalive] Re: General - Research

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\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

From AHA News 11/28/01

1) Research community expresses HIPAA concerns to Thompson  
The Health Insurance Portability and Accountability Act will impede medical and public health research, and will slow medical progress, medical research leaders warn Health and Human Services Secretary Tommy Thompson. In a letter earlier this month, to which AHA is a signatory, the research leaders explain that the medical privacy rule "needlessly" intrudes upon the Institutional Review Board system, which determines case-by-case the physical, procedural, and technical safeguards needed to protect patient privacy and confidentiality. Specifically, the letter addresses concerns that the rule will cause hospitals, health plans and providers to question whether disclosing data for research purposes carries too great a compliance cost and liability risk to justify their continued sharing of data with researchers, even if approved by an IRB. "The locking down of these data bases would paralyze vital public health research," the letter states.

\*\*\*\*\* [hipaalive] RE: SECURITY: Internal Email  
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\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

Hello Evan,

The requirement for encrypting email containing PHI is implicit, not explicit, in the proposed security rule. § 142.308(d)(1)(ii) says that a covered entity must employ either access controls or encryption to prevent unauthorized access to transmitted data. Presumably, you control access to your internal network. You may encrypt internal traffic (in fact, many security professionals recommend it) but the proposed security regulation does not require you to do so.

Bye for now -- Harry

Harry E. Smith, CISSP  
Timberline Technologies LLC

\*\*\*\*\* [hipaalive] RE: Privacy: TCS COB  
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\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

The payor-to-payor disclosure of PHI is being done for COB. Coordination of benefits is part of "payment" (see #(2)(i) under the definition of "payment" in sec. 164.501). So this is a permitted disclosure. And the receiving health plan may use the PHI to determine its benefits (also part of payment) without obtaining consent, since it is not a covered health care provider.

The provider-to-provider disclosure, to enable the receiving provider to bill for services, is not part of payment or health care operations from the perspective of the sending provider. So there would be no TPO justification for the disclosure. And, unless the receiving provider is in an indirect treatment relationship with respect to the individual, the receiving provider could not disclose the PHI for billing purposes without obtaining its own consent.

Now if both providers are part of an organized health care arrangement, then the sending provider could share PHI with the receiving provider, as long as the PHI was created or received by the sending provider while operating in its capacity as a participant in the OHCA. And the receiving provider could use or disclose the PHI for its own TPO, as it relates to the OHCA. (That is, the receiving provider will still have to obtain a consent before it can use PHI to bill for services provided outside the context of the OHCA.) Sec. 164.520 (d)(3) states that the joint privacy notice of an OHCA must, if

applicable, inform the individual that PHI will be shared among the participants for purposes of TPO relating to the OHCA. Presumably, once you have informed an individual by way of the joint privacy notice that you will share PHI for TPO, you are permitted to do so, although HIPAA doesn't say that in so many words.

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\*\*\*\*\* [hipaalive] RE: ADMIN: HIPAAlive-Premium  
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\*\*\* HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com \*\*\*

Actually, it's called HIPAAlive-Premium and yes, it was created for those who are overwhelmed by HIPAAlive's heavy traffic and tired of wading through messages bulked up with prior postings and administrivia. You can receive easy-to-navigate, individually formatted, "cleaned up" digests of HIPAAlive. Original content and meaning is retained.

Unfortunately, progress doesn't come without a cost -- producing this daily HIPAAlive service requires time and work by editors (translation: more staffing!) So, unlike "regular" HIPAAlive, we must charge a fee to subscribers.

If you're not interested in HIPAAlive-Premium, no problem. HIPAAlive "regular" is here to stay, and you may continue receiving it.

Check out the details of HIPAAlive-Premium as well as a SAMPLE EDITION and SAMPLE TOPIC SUMMARY: <http://www.hipaadvisory.com/live/prem.htm>

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